

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

WELLS FARGO BANK, N.A., *plaintiff*,

-against-

STARX MOTORS LLC, JEAN S. SMITH,  
BENJAMIN SCHRAGE, JACQUES A. HORN,  
GENE T. OLIVER, MICHAEL A. CHAVEZ and  
JACQUELINE CHAVEZ, *defendants*.

Case No. 20-cv-5455

Hon. Alvin K. Hellerstein, USDJ

**Motion for an Order Directing  
Disbursement of Interpleader Funds**

Please take notice that upon the accompanying declaration of Richard E. Lerner, defendant/claimant Benjamin Schrage will move this court, before the Honorable Alvin K. Hellerstein, 500 Pearl Street, New York, New York, at a date and time to be determined by the court, for an order directing the clerk of the court to disburse his rightful share of the interpleader fund, believed to total the principal amount of \$56,215.12, plus such interest as may accrue on such share.

Dated: April 8, 2020  
New York, New York

Respectfully submitted,

MAZZOLA LINDSTROM LLP

/s/ Richard E. Lerner

By: Richard E. Lerner

*Attorneys for defendant/claimant*

*Benjamin Schrage*

1350 Avenue of the Americas, 2nd Floor

New York, NY 10019

[richard@mazzolalindstrom.com](mailto:richard@mazzolalindstrom.com)

**Service via ECF and as follows:**

Via U.S. Mail to: Defendant/claimant Jean S. Smith, 77239 Highway 21, Covington, La 70435

Via email to: Defendant/claimant Jacques A. Horn, [horn.j11@gmail.com](mailto:horn.j11@gmail.com)

Defendant/claimant Gene T. Oliver, Jr. [87.gto.11@gmail.com](mailto:87.gto.11@gmail.com)

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**Declaration in Support of Motion Directing  
Disbursement of Interpleader Funds**

I, Richard E. Lerner, an attorney duly admitted to practice before this court, affirm under penalty of perjury, pursuant to 28 U.S.C. 1746, as follows:

1. I am an attorney with the firm Mazzola Lindstrom, LLP, and familiar with the facts stated herein based upon my review of the file maintained with respect to this matter.

2. I make this declaration in support of defendant/claimant Benjamin Schrage's motion for an order directing the clerk to disburse to him his rightful share of the interpleader fund, the principal amount of which is \$56,215.12.

3. Mr. Schrage's claim against the fund totals \$29,500.00, as stated in the accompanying declaration. Exhibit "A" hereto.

4. Defendants Michael A. Chavez and Jacqueline Chavez have failed to appear, and thus a default has been taken against them. Due to the failure of the Chavezes to appear, the interpleader fund is sufficient to satisfy the remaining claims in full.

5. The following represents a breakdown of the amounts due.

<b>Defendant/Claimant</b>	<b>Amount of Claim</b>
Jean S. Smith	\$6,500.00
Benjamin Schrage	\$29,500.00
Jacques A. Horn	\$10,800.00
Gene T. Oliver	\$8,900.00
<b>Total of Claims</b>	<b>\$55,700.00</b>
<b>Remaining Balance</b>	<b>\$515.12</b>

6. We defer to the court as to the disposition of the \$515.12 that will remain in the interpleader fund after disbursement of the funds to the claimants.

WHEREFORE, it is respectfully requested that the court issue an order directing the clerk of the court to disburse to defendant/claimant Benjamin Schrage \$29,500.00, such check to be mailed to Mr. Schrage directly to him, at 4480 Collidge Avenue, Plover, Wisconsin 54467, or, should the court or clerk prefer, it may be mailed to the undersigned.

Dated: April 8, 2020  
New York, New York

Respectfully submitted,

MAZZOLA LINDSTROM LLP

/s/ Richard E. Lerner

By: Richard E. Lerner

*Attorneys for defendant/claimant*

*Benjamin Schrage*

1350 Avenue of the Americas, 2nd Floor

New York, NY 10019

[richard@mazzolalindstrom.com](mailto:richard@mazzolalindstrom.com)